

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Derrick Anthony Criswell, Jr., # 337479,)	
)	C/A No. 2:11-0526-MBS-BHH
Plaintiff,)	
)	
vs.)	ORDER
)	
Lt. Darrell Patrick; Ofc. (FNU) Willis;)	
LeVern Cohen, Warden; Robert Ward,)	
Reg. Dir.; Jon E. Ozmint, Director SCDC,)	
)	
Defendants.)	
)	

At the time of the underlying complaint, Plaintiff Derrick Anthony Criswell, Jr. was an inmate in custody of the South Carolina Department of Corrections (SCDC). Plaintiff, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983, alleging that his constitutional rights were violated in certain respects.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915 and 1915A. On March 21, 2011, the Magistrate Judge filed a Report and Recommendation in which she recommended that Defendants Ward and Ozmint should be summarily dismissed because (1) they cannot be held liable in their individual capacities under respondeat superior principles; and (2) they cannot be held liable in their official capacities because they are immune from suit under the Eleventh Amendment. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or

in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants Ward and Ozmint are dismissed as parties without prejudice and without issuance and service of process. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

May 12, 2011